

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12633 of 2015

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1. Bikash Kumar, Son of Shri Binod Kumar, resident of South Mandiri, Kathpul, Harijan Colony, Patna.
 2. Binay Kumar, Son of Kapil Deo Ram, resident of villaeg - Vishnupura, Post-Hisuapur, P.S. - Hisuapur, District - Chapra.
 3. Lucky Kumari, daughter of Shri Narendra Prasad Singh, resident of B.P. Building, Vidyapati Nagar, District - Saharsa.
 4. Rohit Kumar, Son of Shri Ram Narayan, resident of Ward No. 25, Kurhali Road, Near Bengalitola, Forbesganj, District - Araria.
 5. Sidharth Kumar, Son of Shri Pankaj, resident of New Colony, Dak Bunglow Road, Bettiah, District-West Champaran.
 6. Rekha Kumari, daughter of Shri Sakaldeo Prasad Singh, resident of Madhuban, Budh Nagar, R. No. 03, Kankarbagh, District -Patna.

.... Petitioners

Versus

1. The Patna University, Patna through its Registrar.
2. Vice Chancellor, Patna University, Patna.
3. Registrar, Patna University, Patna.
4. Controller of Examinations, Patna University, Patna.
5. Director, M.A. in Social Work, Sociology Department, Patna University, Patna.

.... Respondents

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Appearance :

For the Petitioners : Mr. Abhinav Srivastava, Advocate
For the University : Mr. Digvijay Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 05-04-2016

The petitioners are students of M.A. in Social Work and they took admission for the session 2013-15. They have been compelled to file the present writ application because the respondent-Patna University authorities would not evaluate the answer sheet of the 4th semester and declare their result. Communication in this regard is dated 25.06.2015 and annexed as Annexure-13.

2. The six petitioners do not dispute the basic facts that



as students of the 1st semester, they did not clear the requisite papers, therefore, they were not entitled to be promoted to the 2nd semester. But it was not so. The petitioners were allowed to pursue their studies in the 2nd semester, sit for the examination which they cleared. They cleared the examination of the 3rd semester as well and reached the 4th semester. In the meantime, they had cleared even the papers of the 1st semester and it is only at the stage of 4th semester that the respondent authorities of the Patna University discover that these petitioners ought not to have been promoted to the 2nd semester or allowed to sit for the examination since they had not cleared the 1st semester examination.

3. The explanation offered by the petitioners for sitting in the 2nd semester is that the result for the 1st semester was delayed. They took admission in the 2nd semester. There was no objection raised by the University authorities. On completion of the course they applied and they sat for the examination in which they were declared pass. This went on till they reached the final semester. Now the University authorities want to invoke their powers under the Ordinance and Regulation with regard to the conduct of the courses and not evaluate the answer sheet of the 4th semester and declare their results.

4. Counsel representing the University has explained



the position in detail as to the reason why they decided not to evaluate the answer sheet of these petitioners for the 4th semester. They have brought on record the requisite Regulation and the Ordinance which govern such issue but they fail to answer as to how the petitioners were permitted to continue their studies right from 2nd semester till the 4th semester without such a fact having been discovered.

5. Counsel for the petitioners presses into service a decision of the Hon'ble Apex Court rendered in the case of *Shri Krishan v. The Kurukshetra University, Kurukshetra*, reported in AIR 1976 SC 376. Counsel for the petitioners draws the attention of this Court to paragraph-6 of the said decision. The relevant parts reads as under:

"The last part of this statute clearly shows that the University could withdraw the certificate if the applicant had failed to attend the prescribed course of lectures. But this could be done only before the examination. It is, therefore, manifest that once the appellant was allowed to take the examination, rightly or wrongly, then the statute which empowers the University to withdraw the candidature of the applicant has worked itself out and the applicant cannot be refused admission subsequently for any infirmity which should have been looked into before giving the applicant permission to appear."

6. The law laid down by the Hon'ble Apex Court in the *Kurukshetra University* (supra) case also applies to the facts of the present case. If the respondent-University authorities wanted to invoke the powers under the Ordinance, it should have been done so in the 2nd semester itself. They have themselves allowed the students

to continue the studies till the final semester and they cannot now discover and withhold their evaluation and non-declaration of result for violating the procedure and the Regulation by the petitioners.

7. Examinations have been conducted by the University, forms have been accepted by the University and results for other semester have been declared by the University all along without invoking such power.

8. It is too late in the day, keeping in mind the principle laid down by the Hon'ble Supreme Court to withhold the non-declaration of their result for the final semester specially when the petitioners have cleared all the papers of every semester except the 4th semester for which evaluation has not been done. The Court directs the Vice-Chancellor as well as the Controller of Examination to ensure that the evaluation of the answer sheet of these petitioners is done within a period of six weeks and results declared within a period of eight weeks.

9. The time frame indicated above must be adhered to.
Writ application is allowed.

(Ajay Kumar Tripathi, J.)

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